

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

3 --oo--

4 UNITED STATES OF AMERICA,) Case No. 2:20-CR-00213-KJM-1
5)
6 Plaintiff,) Sacramento, California
7) April 6, 2023, 10:00 a.m.
8 v.) Re: Change of Plea Hearing
9 CHALONER SAINTILLUS,)
10)
11)
12 Defendant.)

13 TRANSCRIPT OF PROCEEDINGS
14 BEFORE THE HONORABLE KIMBERLY J. MUELLER
15 CHIEF UNITED STATES DISTRICT JUDGE

16 APPEARANCES:

17 For the Government: U.S. DEPARTMENT OF JUSTICE by
18 MR. ROSS PEARSON,
19 ASSISTANT U.S. ATTORNEY
20 501 I Street, Suite 10-100
21 Sacramento, California 95814

22 For the Defendant: LAW OFFICES OF DAVID D. FISCHER by
23 DAVID D. FISCHER
24 5701 Lonetree Boulevard, Suite 312
25 Rocklin, California 95765

19 MARYANN VALENOTI, RMR, CRR
20 Official Court Reporter
21 501 I Street, Suite 4-200
22 Sacramento, CA 95814
23 MValenotiRMRCRR@gmail.com
24 (916) 930-4275

25 Proceedings reported via mechanical steno - transcript produced
26 via computer-aided transcription

1 SACRAMENTO, CALIFORNIA, THURSDAY, APRIL 6, 2023

2 --oo--

3 (In open court.)

4 THE CLERK: All rise. Court is now in session.

5 Chief Judge Kimberly J. Mueller now presiding.

6 Thank you. You may be seated.

7 Calling criminal case 20-213, United States versus
8 Chaloner Saintillus. This is on for a change of plea.

9 THE COURT: All right. Good morning. Appearances,
10 please, for the Government.

11 MR. PEARSON: Good morning, Your Honor. Ross Pearson
12 for the Government.

13 THE COURT: Good morning, Mr. Pearson. And for
14 Mr. Saintillus?

15 MR. FISCHER: Good morning, Your Honor. David Fischer
16 for Mr. Saintillus. He is present in custody.

17 THE COURT: Good morning, Mr. Fischer and
18 Mr. Saintillus.

19 So I understand that Mr. Saintillus is prepared to
20 enter a plea of guilty this morning, correct?

21 MR. FISCHER: That's my understanding.

22 THE COURT: And I'm looking at the filing on April 3,
23 and I also received a memorandum concerning elements,
24 penalties, factual basis, signed by Mr. Fischer and
25 Mr. Saintillus on April 3.

1 MR. FISCHER: There should be one that's signed
2 April 3 at 4:16.

3 THE COURT: Correct, that's the one I have. You have
4 that as well, Mr. Pearson?

5 MR. PEARSON: Yes, Your Honor.

6 THE COURT: So, Mr. Saintillus, are you confirming you
7 are prepared to enter a plea of guilty to all 12 counts in the
8 superseding indictment?

9 THE DEFENDANT: Can I address the Court?

10 THE COURT: Well, can you respond to my question? I
11 see that you signed something suggesting that there's something
12 on the docket saying that you do wish to enter a plea of
13 guilty. So first answer my question, is that correct?

14 THE DEFENDANT: My initial view on this was a plea of
15 no contest.

16 THE COURT: All right. So I had seen some e-mail
17 correspondence with the courtroom deputy, and so I had
18 understood that. My understanding is that at this point you
19 are prepared to proceed with the plea of guilty, but I want to
20 make clear the record with respect to a possible no contest
21 plea, which is allowed by Rule 11. It's in the discretion of
22 the District Court, but in checking the case law, I need to
23 think about the reasons for why I would accept a no contest
24 plea, as opposed to a not guilty plea, and I want to make clear
25 that I don't have a standing policy to not accept nolo pleas,

1 but I do think about whether or not there are compelling
2 reasons to do so and if it would be in the public interest. I
3 think the case law says that's what I need to be thinking
4 about. So here I'm not aware of any compelling reason or how
5 the public interest would be served. I understand the
6 Government's position to be that it would oppose the Court's
7 accepting a nolo plea, correct, Mr. Pearson?

8 MR. PEARSON: Correct, Your Honor.

9 THE COURT: But ultimately it's up to me. I have the
10 discretion.

11 Mr. Fischer, are you aware of any compelling reason or
12 a public interest factor that would support the Court's
13 exercising its discretion to accept a nolo plea here?

14 MR. FISCHER: I don't. I just know Mr. Saintillus's
15 desire to enter a no contest plea.

16 THE COURT: I understand that. So I wanted to make
17 clear I'm not rejecting it out of hand, but I have to think
18 about whether or not I would accept it, and I'm not aware of a
19 reason here.

20 Mr. Saintillus, do you want to confer with Mr. Fischer
21 briefly and let him know if you are saying that there is a
22 compelling reason or a public interest factor, just so it's
23 clear, the compelling reasons can be a medical condition that
24 the trial would be impeded, that there's some complexity in
25 trial that creates challenges. Some corporate defendants have

1 ultimately persuaded the Court given that no one person in a
2 corporation may be the person to enter a plea of guilty, that a
3 nolo plea makes sense. Here you will be free to appeal
4 regardless. Your right to appeal will be completely
5 unfettered. So is there any compelling reason or public
6 interest factor you want to share with Mr. Fischer at this
7 time, Mr. Saintillus, so that he could make an argument taking
8 account of the applicable law?

9 THE DEFENDANT: Well, Mr. Fischer was advising me to
10 plead guilty, but in my heart I feel that it's not what I
11 really wanted to do. I wanted to plead no contest.

12 THE COURT: I understand --

13 THE DEFENDANT: That's what I strongly feel.

14 THE COURT: I understand that's what you want. I have
15 to think about the law that applies to you and to every other
16 person, so that's why I'm asking about the compelling reason.
17 I understand you believed there was a compelling personal
18 reason, but in terms of what the law recognizes, I'm not
19 hearing a compelling reason. I'm also not hearing that the
20 public interest weighs in favor of a nolo plea. So courts --
21 other courts before me have considered this question, and when
22 it's purely a defendant's desire, that is not sufficient to
23 support the applicable factors. I don't have a default policy
24 one way or the other. So is there anything that you want to
25 share with Mr. Fischer to argue compelling reason or public

1 interest?

2 THE DEFENDANT: Well, then I would feel out of the
3 need of necessity, then I would plead guilty.

4 THE COURT: All right. Under those circumstances,
5 Mr. Pearson, do you believe the Court can proceed with the
6 standard plea colloquy?

7 MR. PEARSON: I think we should see what his answers
8 to the colloquy are.

9 THE COURT: Of course, but I mean just start with it.

10 MR. PEARSON: To start with, yes. If I could also
11 just add some reasons.

12 I think this is not in the interest of justice or in
13 the public's interest to take a nolo plea. In addition to all
14 the factors that the Court highlighted, Mr. Saintillus, if he
15 plead nolo, would not actually be admitting his guilt. His
16 plea wouldn't be able to be used against him in the future
17 proceedings in the Ninth Circuit. There would be an appearance
18 of someone going to prison having not been found guilty or
19 admitted guilty, which is another factor courts point to in
20 order not to take nolo pleas.

21 As the Court pointed out, there is nothing
22 particularly extraordinary, special, or compelling about this
23 case. It is a straightforward drug trafficking case.
24 Mr. Saintillus sold drugs on the Internet. The trial shouldn't
25 be unusually complex or difficult to administer justice, so we

1 would ask the Court to reject Mr. Saintillus's request to plead
2 nolo.

3 THE COURT: All right. I understand those arguments.
4 It is the case that a nolo plea would be treated the same as a
5 guilty plea for purposes of sentencing.

6 All right, Mr. Fischer, anything else you'd like to
7 say; do you believe I can proceed?

8 MR. FISCHER: Yes, I believe you can proceed.

9 THE COURT: All right. So Mr. Saintillus, I'm
10 prepared to go through the Rule 11 colloquy. Federal Rules of
11 Criminal Procedure requires that I ask you a number of
12 questions, and there are additional questions based on the case
13 law, so I'll listen carefully to each of your answers.

14 At the beginning of the plea I need to advise you that
15 I'm going to ask all these questions, and if at any point you
16 don't understand the question, or for any reason you wish to
17 take a break, to think twice about what's going on here this
18 morning and what you are doing, if you wish to consult with Mr.
19 Fischer, really for any reason whatsoever, please let me know
20 because it is essential that you understand everything that's
21 happening here today, and that before you answer a question,
22 you feel confident in your answer; do you understand all of
23 that?

24 THE DEFENDANT: Uh-huh.

25 THE COURT: I need you to say yes or no so I'm clear

1 on your answer.

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Now, I will also ask the
4 courtroom deputy to administer an oath, and a person can either
5 swear or affirm. Do you have a preference; do you wish to
6 swear or affirm?

7 THE DEFENDANT: Affirm.

8 THE COURT: Affirm. All right, Ms. Schultz, can you
9 please administer the oath asking Mr. Saintillus to affirm?

10 MR. FISCHER: Yes, Your Honor.

11 Defendant, affirmed.

12 THE DEFENDANT: Say it again.

13 Defendant, affirmed.

14 THE DEFENDANT: I affirm I will tell the truth, the
15 whole truth under the laws of the United States.

16 THE CLERK: Thank you. You may put your hand down.

17 THE COURT: All right. Now that you've entered that
18 affirmation, do you understand that your answers to my
19 questions could be used against you in a prosecution for
20 perjury or making a false statement if you do not answer me
21 truthfully?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand that you are offering to
24 enter what we call an open plea without any agreement with the
25 Government, correct?

1 THE DEFENDANT: Yes.

2 THE COURT: Just a few background questions. What is
3 your full and true name for the record? I understand that you
4 use another name than what's on the Court's docket, but just
5 help me understand what is your full and true name for the
6 record?

7 THE DEFENDANT: My birth name is spelled
8 C-H-A-L-O-N-E-R. Last name is spelled S-A-I-N-T-I-L-L-U-S.

9 THE COURT: All right. How old are you?

10 THE DEFENDANT: Just turned 35 in January.

11 THE COURT: This past January?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. How many years of school have
14 you completed?

15 THE DEFENDANT: I did one or two years of college.

16 THE COURT: What is your occupation when you're
17 working?

18 THE DEFENDANT: I did security.

19 THE COURT: Had you ever been treated for any mental
20 illness or psychiatric condition?

21 THE DEFENDANT: No.

22 THE COURT: Have you been treated for substance abuse,
23 drug or alcohol abuse?

24 THE DEFENDANT: No.

25 THE COURT: Have you consumed any prescription

1 medication in the last 24 hours?

2 THE DEFENDANT: I had a DUI in the past, that's all,
3 but no.

4 THE COURT: And you didn't take any program after
5 that?

6 THE DEFENDANT: Just the usual standard programs that
7 comes with the DUI.

8 THE COURT: But there's nothing about the use of
9 alcohol that's permanently affected your ability to understand
10 what's going on around you?

11 THE DEFENDANT: No.

12 THE COURT: Have you consumed any prescription
13 medication in the last 24 hours?

14 THE DEFENDANT: No.

15 THE COURT: Have you consumed any narcotic or alcohol
16 in the last 24 hours?

17 THE DEFENDANT: No.

18 THE COURT: Did you receive a copy of the superseding
19 indictment, that's the charging document filed on October 27 of
20 2022?

21 THE DEFENDANT: Yes.

22 THE COURT: Did you have a chance to fully review all
23 of the charges in that document?

24 THE DEFENDANT: Yes.

25 THE COURT: Have you had a chance to fully consider

1 all of your possible responses to the charges, including any
2 defenses you may have in consultation with Mr. Fischer?

3 THE DEFENDANT: Yes.

4 THE COURT: Are you satisfied with the advice,
5 counsel, and representation that Mr. Fischer has given you in
6 this case?

7 THE DEFENDANT: Not completely.

8 THE COURT: I understand that, and I understand at
9 times you've asked to revert to representing yourself. Let me
10 ask you this: Have you had the opportunity to discuss all of
11 the charges with Mr. Fischer?

12 THE DEFENDANT: Yes.

13 THE COURT: Have you had the opportunity to discuss
14 possible defenses to all of the charges with Mr. Fischer?

15 THE DEFENDANT: Not completely, I don't think so.

16 THE COURT: All right.

17 THE DEFENDANT: But I would say yes for the most part.

18 THE COURT: All right. Has Mr. Fischer made himself
19 available to you to talk about this matter?

20 THE DEFENDANT: Pretty -- yes.

21 THE COURT: And he did -- in terms of this memorandum
22 that was signed on April 3 at 4:16 p.m., it appears that Mr.
23 Fischer talked through that with you.

24 THE DEFENDANT: Yes.

25 THE COURT: All right.

1 THE DEFENDANT: We reviewed it.

2 THE COURT: Pardon me?

3 THE DEFENDANT: We reviewed it.

4 THE COURT: All right. Do you understand that Mr.
5 Fischer has had discussions with the prosecutor, Mr. Pearson
6 and perhaps also Mr. Stefanki, about your decision to enter a
7 plea of guilty today?

8 THE DEFENDANT: Yes.

9 THE COURT: And do you believe that Mr. Fischer has
10 told you everything you need to know about the attorneys's
11 discussions?

12 THE DEFENDANT: I think so.

13 THE COURT: What was that?

14 THE DEFENDANT: Yes.

15 THE COURT: All right. Let me ask you, the attorneys,
16 this: I have previously found that Mr. Fischer is able to
17 represent Mr. Saintillus as required, to provide the level of
18 defense required by the Constitution, and so I believe given
19 Mr. Saintillus's answers, that they are sufficient for me to
20 proceed with the Rule 11 colloquy taking account of the prior
21 record, including records created under seal, in camera. Any
22 concerns, Mr. Pearson?

23 MR. PEARSON: No, Your Honor.

24 THE COURT: Mr. Fischer?

25 MR. FISCHER: No, Your Honor.

1 THE COURT: Mr. Saintillus, let me ask you this: Are
2 you pleading today because that's what you want to do?

3 THE DEFENDANT: Yes.

4 THE COURT: Has anyone made any promises to you to get
5 you to plead guilty here today?

6 THE DEFENDANT: No.

7 THE COURT: Has anyone threatened you, a family member
8 or close friend, in order to get you to plead guilty?

9 THE DEFENDANT: No.

10 THE COURT: Do you understand the offenses you are
11 willing to plead guilty to are felony offenses, each count
12 charged as a felony, and based on the statute passed by
13 Congress, the exposure in terms of prison time is at least a
14 year; you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: You probably understand at this point, but
17 I need to review with you here today, a felony conviction
18 carries with it very serious consequences, including the
19 possible deprivation of valuable civil rights. Upon entry of
20 convictions, which will happen if I accept your pleas, you
21 could be looking at the loss of the right to vote depending on
22 the state in which you reside, the loss of the right to sit on
23 a jury, to run for public office, to carry a firearm ever
24 again, also possibly the right to receive federal benefits. Do
25 you understand all of those possible consequences?

1 THE DEFENDANT: Yes.

2 THE COURT: Are you currently on probation or parole
3 in connection with any other case?

4 THE DEFENDANT: No.

5 THE COURT: I ask everyone this question because I
6 can't make assumptions simply based on seeing you here today.
7 If you're not a citizen, do you understand that a plea of
8 guilty can affect citizenship status resulting in denial of
9 naturalization, exclusion from this country or deportation?

10 THE DEFENDANT: Yes.

11 THE COURT: In terms of the penalties associated with
12 the charges, they are covered in the memorandum that you and
13 Mr. Fischer signed. They are the same on each count, correct,
14 Mr. Pearson?

15 MR. PEARSON: Yes, Your Honor.

16 THE COURT: So the maximum sentence per count is 20
17 years incarceration, a fine of up to \$1 million or both fine
18 and imprisonment, supervised release of at least three years up
19 to life. There is also a mandatory special assessment of \$100
20 per count. Do you understand those are the penalties and that
21 is the assessment associated with each charge?

22 THE DEFENDANT: Yes.

23 THE COURT: Supervised release is what we call the
24 period of time following incarceration that a person serves
25 subject to conditions with supervision by a probation officer.

1 Any violation of a condition can result in the person being
2 returned to prison to serve additional time. In this case it
3 appears supervised release is mandatory. I can't predict that
4 entirely, but that is what the statute says. And so if during
5 supervised release you were revoked for a violation, you could
6 be looking at up to additional three years per count
7 incarceration; do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: There is also a forfeiture consequence,
10 and that's reviewed in the memorandum that you and Mr. Fischer
11 signed. Meaning that upon conviction, you could be looking at
12 the forfeiture of assets or a sum of money equivalent to the
13 amount of proceeds obtained as a result of the offense as a
14 consequence, and that's a question I would address at
15 sentencing, if we get there. Do you understand that forfeiture
16 of assets or funds is also a possible consequence?

17 THE DEFENDANT: Yes.

18 THE COURT: There's no restitution, correct,
19 Mr. Pearson?

20 MR. PEARSON: Correct.

21 THE COURT: Agreed, Mr. Fischer?

22 MR. FISCHER: Yes, Your Honor.

23 THE COURT: Do you have any question about possible
24 consequences at this point, Mr. Saintillus?

25 THE DEFENDANT: No.

1 THE COURT: I want to make certain you understand how
2 sentencing will work very briefly. Sentencing will occur on a
3 date in the future if I do accept your pleas. Sentencing is
4 covered by the Sentencing Reform Act, that act has created a
5 body called the U.S. Sentencing Commission. That commission
6 has published guidelines that I must consult, even though they
7 are advisory. Have you had a chance to consider how the
8 guidelines may apply to your case in conversation with Mr.
9 Fischer?

10 THE DEFENDANT: I had a few discrepancies about this.

11 THE COURT: You and Mr. Fischer had some
12 discrepancies?

13 THE DEFENDANT: Yup.

14 THE COURT: You understand generally how the
15 guidelines may apply?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. I think that's the -- so you
18 understand the kind of arguments that Mr. Fischer could make,
19 that you could ask him to make at the time of sentencing?

20 THE DEFENDANT: Yes.

21 THE COURT: And I will certainly do my best to
22 understand every person's position. I'll be working with the
23 report from Probation, but ultimately it will be my job to
24 determine the guideline range as a starting point. I'll do
25 that independently; you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: And then once I calculate the guideline
3 range, then I will independently determine, taking account of
4 the entire record before me. At that time I'll determine
5 whether or not to go outside the range above or below it, and
6 in making that decision, I'll look at the guidelines
7 themselves, which may provide for something called a departure,
8 and I'll also look at the sentencing factors that Congress says
9 I must consider. So you understand that's the process I'll go
10 through in deciding whether or not to go outside the guideline
11 range to the extent I can under the law?

12 THE DEFENDANT: Yes.

13 THE COURT: The factors that Congress has passed asked
14 me to look at your own history and characteristics, the nature
15 of the offense you're saying you are willing to plead guilty
16 to, the offenses and other factors as well; you generally
17 understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand that if I accept your
20 pleas here today and then I impose a sentence you don't like,
21 that won't be a reason for you to come back and try to withdraw
22 your guilty pleas if I accept them here today, understood?

23 THE DEFENDANT: Yes.

24 THE COURT: Before I review your constitutional
25 rights, have I covered everything required by Rule 11,

1 Mr. Pearson?

2 MR. PEARSON: Yes, Your Honor.

3 THE COURT: Mr. Fischer.

4 MR. FISCHER: Yes, Your Honor.

5 THE COURT: Mr. Saintillus, I do want to make certain
6 you are clear on your constitutional rights. You, of course,
7 have the right to stand by the not guilty pleas you previously
8 entered, and if you did that, you could go to a full jury trial
9 and with Mr. Fischer as your attorney, assist in selecting your
10 jury; do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: At a jury trial, you would be able to see,
13 hear, and question the Government's witnesses against you, and
14 you could object to any evidence the Government tries to
15 introduce through witnesses or documents; do you understand
16 that?

17 THE DEFENDANT: Yes.

18 THE COURT: At a trial you could take the stand and
19 testify in your own defense, but you also could remain silent,
20 and if you remain silent, the Government could not argue an
21 inference of your guilt based on your silence. Do you
22 understand that essential right?

23 THE DEFENDANT: Yes.

24 THE COURT: If you went to trial you could seek from
25 the Court subpoenas. Those are formal documents to require the

1 testimony of any person you might want to call in a case in
2 defense. Do you understand that right?

3 THE DEFENDANT: Yes.

4 THE COURT: If you went to trial, you, of course,
5 would have the right to insist the Government prove you guilty
6 beyond a reasonable doubt and by competent evidence; do you
7 understand that right?

8 THE DEFENDANT: Yes.

9 THE COURT: If you do go forward in a few moments and
10 enter formal pleas of guilty you will no longer be presumed
11 innocent on each of the counts as you still are in the eyes of
12 the Court because you will be telling me that you were, in
13 fact, guilty of the charge in each count. Do you understand
14 that presumption of innocence that still attaches to you?

15 THE DEFENDANT: Yes.

16 THE COURT: With all of these understandings, are you
17 prepared to go forward in a few moments and enter formal pleas
18 of guilty?

19 THE DEFENDANT: Yes.

20 THE COURT: All right. Before I ask you those
21 questions, I need to make certain you do understand each of the
22 elements of the charged offenses. They are the same for each
23 charge. I'm going to ask Mr. Pearson to read those into the
24 record. Are you prepared to do that, Mr. Pearson?

25 MR. PEARSON: Yes, Your Honor.

1 THE COURT: All right.

2 MR. PEARSON: As to each count the Government would
3 prove the following two elements beyond a reasonable doubt:
4 First, on or around the date alleged in each count of the
5 superseding indictment, the defendant knowingly distributed the
6 controlled substance alleged in each count, and second, the
7 defendant knew that the substance he distributed was the
8 substance alleged in that count or some other federally
9 controlled substance.

10 THE COURT: Mr. Saintillus, do you understand that
11 those are the elements, each one of them, the Government would
12 have to prove for each count if you did go to trial?

13 THE DEFENDANT: Yes.

14 THE COURT: I also need to consider if you are
15 admitting to facts to support each of those elements per count.
16 I'm looking at the memorandum you and Mr. Fischer signed.
17 There is a factual basis starting on Page 3 at Line 18 and
18 going through Page 6, Line 2.

19 Here, Mr. Fischer, do you have an understanding, and I
20 could verify with Mr. Saintillus, would he request to rely on
21 the written document or would he request that it be read here
22 in open court?

23 MR. FISCHER: I think he would request to rely on the
24 written document.

25 THE COURT: All right. So, Mr. Saintillus, you heard

1 me, but I need to make certain I understand your position. You
2 know what I'm talking about when I refer to the factual basis
3 for the plea that you signed on the 3rd at 4:16 p.m.?

4 THE DEFENDANT: Yes.

5 THE COURT: Do you wish that factual basis read into
6 the record, or are you prepared to rely on the written document
7 here today?

8 The key is you have the entire factual basis in mind
9 as you stand here now. So do you wish it read out loud or are
10 you prepared to rely on the written document?

11 THE DEFENDANT: I'll rely on the written document.

12 THE COURT: So you do have clearly in mind everything
13 it says in the factual basis on Pages 3 through 6?

14 THE DEFENDANT: Yes.

15 THE COURT: Does that accurately set forth what
16 happened and what you did?

17 THE DEFENDANT: Nope.

18 THE COURT: You said no. All right, in that case, can
19 you tell me, do you disagree with the entire factual basis or
20 is there a portion with which you disagree?

21 THE DEFENDANT: Yes, I rely on the factual basis.

22 THE COURT: Pardon me?

23 THE DEFENDANT: I will rely on the factual basis for
24 the plea.

25 THE COURT: But here's what I need you to tell me,

1 does that accurately set forth what happened and what you did?

2 THE DEFENDANT: Yes.

3 THE COURT: And you are certain about that?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. Any concerns, Mr. Pearson?

6 MR. PEARSON: No, Your Honor.

7 THE COURT: Mr. Fischer?

8 MR. FISCHER: No, Your Honor.

9 THE COURT: All right. Mr. Saintillus, I'm now going
10 to go through each of the 12 counts and ask you as to each
11 count so that the record is clear what your plea is.

12 So Count 1, referencing activity on April 16 of 2020,
13 and the controlled substance oxymorphone, how do you plead;
14 guilty or not guilty?

15 THE DEFENDANT: Guilty.

16 THE COURT: Count 2, referencing activity on April 22,
17 2020, and the controlled substance heroin and fentanyl, how do
18 you plead; guilty or not guilty?

19 THE DEFENDANT: Guilty.

20 THE COURT: Count 3, activity on April 22, also
21 referencing heroin and fentanyl, how do you plead; guilty or
22 not guilty?

23 THE DEFENDANT: Guilty.

24 THE COURT: Did you say guilty?

25 THE DEFENDANT: Guilty.

1 THE COURT: All right. Count 4, referencing activity
2 on April 29, 2020, and I should say these are all violations of
3 21 U.S.C. Section 841(a)(1) distribution of a controlled
4 substance; you understand that, correct?

5 THE DEFENDANT: Uh-huh, yes.

6 THE COURT: All right. So Count 4, activity on
7 April 29, 2020 referencing fentanyl, how do you plead; guilty
8 or not guilty?

9 THE DEFENDANT: Guilty.

10 THE COURT: Did I finish Count 3?

11 MR. PEARSON: Yes.

12 THE COURT: Thank you. I'm now turning to Count 5,
13 same charge, activity on May 20, 2020 referencing fentanyl, how
14 do you plead; guilty or not guilty?

15 THE WITNESS: Guilty.

16 THE COURT: Count 6, referencing activity on June 1 of
17 2020, referencing fentanyl, how do you plead; guilty or not
18 guilty?

19 THE DEFENDANT: Guilty.

20 THE COURT: Count 7, activity on June 17, 2020,
21 referencing oxycodone, how do you plead; guilty or not guilty?

22 THE DEFENDANT: Guilty.

23 THE COURT: I need to hear that again.

24 THE DEFENDANT: Guilty.

25 THE COURT: All right. Count 8, referencing activity

1 on July 6, 2020, and the controlled substance fentanyl; how do
2 you plead?

3 THE DEFENDANT: Guilty.

4 THE COURT: Guilty recorded. Count 9, activity on
5 July 7, 2020, referencing fentanyl; guilty or not guilty?

6 THE DEFENDANT: Guilty.

7 THE COURT: Count 10, activity on August 20, 2020,
8 referencing the controlled substance oxymorphone, how do you
9 plead; guilty or not guilty?

10 THE DEFENDANT: Guilty.

11 THE COURT: Count 11, activity on October 21, 2020,
12 referencing oxycodone; guilty or not guilty?

13 THE DEFENDANT: Guilty.

14 THE COURT: And Count 12, activity on October 26, 2020
15 referencing fentanyl, how do you plead?

16 THE DEFENDANT: Guilty.

17 THE COURT: Guilty. Having had this exchange with Mr.
18 Saintillus, listened very carefully to his answers, observed
19 his demeanor throughout, I find that unquestionably he is fully
20 competent and capable of entering an informed plea. I find
21 that his plea on each count is knowing and voluntary. It is
22 supported by an independent basis in fact regarding each count
23 and the facts to which he's admitted as reflected in the
24 memorandum filed with the Court on Pages 3 through 6.

25 THE DEFENDANT: Could I make a note?

1 THE COURT: Hold on one second. Let me finish. I do
2 support each of the essential elements of the charged offenses.

3 What you do you want me to know, Mr. Saintillus?

4 THE DEFENDANT: Like I said previously from when we
5 started, out of the rule of necessity, that is why I'm pleading
6 guilty.

7 THE COURT: I understand you said that.

8 THE DEFENDANT: Okay.

9 THE COURT: And I did hear that earlier.

10 THE DEFENDANT: Making sure.

11 THE COURT: So that's a matter of record.

12 THE DEFENDANT: Okay.

13 THE COURT: And I think the Court's consideration of
14 that in the context of the possibility of a nolo plea makes
15 clear how I weighed that. It could be for another Court to
16 decide.

17 All things considered, given the record now before the
18 Court, Mr. Saintillus's solemn responses to my questions in
19 open court, I'm accepting his plea of guilty with respect to
20 Counts 1 through 12 and hereby adjudging him guilty of those
21 counts as reflected in the superseding indictment filed on
22 October 27 of 2022. So we'll set this now for sentencing.

23 As I mentioned, Probation, the probation office will
24 assist the Court. There will be a probation officer assigned
25 to write a Presentence Report. You may provide information to

1 that probation officer. Mr. Fischer can assist you in doing
2 that.

3 The probation officer will first prepare a draft
4 report. You and the Government may file informal objections to
5 the draft. The probation officer will consider those informal
6 objections and then prepare a final report for me.

7 You and the Government may file formal objections to
8 the final report. At the time of sentencing I will rule on any
9 objections. I will hear the arguments of the attorneys and
10 I'll give you a chance to address me before I make a final
11 decision.

12 So what date are we offering for sentencing,
13 Ms. Schultz?

14 MR. FISCHER: July 10, 2023 at 9:00 a.m.

15 THE COURT: Is that date acceptable, Mr. Pearson?

16 MR. PEARSON: Yes, Your Honor.

17 THE COURT: Mr. Fischer?

18 MR. FISCHER: Yes, Your Honor.

19 THE COURT: All right. May we vacate the trial date?

20 MR. PEARSON: Yes, Your Honor, and if I could just
21 make one more record for the Court, Mr. Saintillus said twice
22 that he was pleading guilty out of necessity. It's my
23 understanding from the context of what he was saying is that he
24 was indicating that he wished to plead nolo contendere, but
25 because the Court was not going to consent to that plea, that

1 he was pleading guilty instead.

2 I just want to make clear that he also indicated that
3 he understands he's not being forced to plead guilty. That if
4 he doesn't want to plead guilty, if he wants to persist in the
5 not guilty plea, we could proceed to trial. I would just ask
6 the Court to inquire and make sure that's accurate, though.

7 THE COURT: Well, that's the Government's report. The
8 Government is creating its record, but my understanding is you
9 do not wish to proceed to trial, correct, Mr. Saintillus?

10 THE DEFENDANT: I wanted to plead no contest.

11 THE COURT: I understand that, but you have -- you've
12 plead guilty and that means we -- I'm going to take the trial
13 date off the calendar. You understand that that's the
14 consequence of my accepting your pleas of guilty, correct?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. You're not requesting that I
17 maintain the trial date?

18 THE DEFENDANT: No.

19 THE COURT: All right. Do you understand my question?

20 THE DEFENDANT: Yes.

21 THE COURT: All right. So my understanding is
22 Mr. Saintillus is not requesting that I maintain the trial
23 date; that his not guilty [sic] pleas are recorded.

24 I find that he knowing and voluntarily proceeded with
25 the not guilty [sic] pleas with the understanding the Court was

1 not prepared in the exercise of its discretion to accept nolo
2 pleas.

3 Anything else to say, Mr. Fischer?

4 MR. FISCHER: I think you meant to say "guilty" not
5 "not guilty" just now.

6 THE COURT: Did I say "not guilty"?

7 Yes, I proceeded to accept guilty pleas and did not
8 exercise my discretion to accept nolo pleas. Thank you for
9 that correction.

10 Anything else?

11 MR. FISCHER: No, thank you.

12 THE COURT: All right. We'll see you at sentencing,
13 then.

14 MR. PEARSON: Thank you.

15 MR. FISCHER: Court is in recess.

16 (Proceedings adjourned at 10:33 a.m.)

17

18 C E R T I F I C A T E

19

20 I certify that the foregoing is a true and correct
21 transcript of the proceedings in the above-entitled matter.

22

23 
24 MARYANN VALENOTI, RMR, CRR
Official Court Reporter
CA CSR #11266

25 July 26, 2023
DATE